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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,884	09/09/2003	Ronald Scott Carruth	587-01	2620

7590 10/15/2004
William H. Eilberg
420 Old York Road
Jenkintown, PA 19046

EXAMINER

KHAIRA, NAVNEET K

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 10/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/657,884

Applicant(s)

CARRUTH ET AL.

Examiner

Navneet K. Khaira

Art Unit

3754

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejection

ns under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 1, 3, 4, 5, 7, 8, 10, 11, 12, 14, 15, 17, 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Lavoie et al (US 5,749,498).

Referring to claims 1, 3, and 5, Lavoie et al. discloses an applicator tool which can be used as a caulking gun which discussed having all the claimed features: cartridge (12), compound, plunger (14), tip (Figure 1), spaced-apart openings (48 & 50), a planar surface (surface on which outlet portions 48 & 50 lie), a guide extending outside the planar surface at one of the lateral edges (46), the guide (46) has a planar wall which defines a surface that is perpendicular to the planar surface of the outlet portion (surface on which outlet portions 48 & 50 lie), a guide also defines a planar surface that is non-parallel to the planar surface of the outlet end of the tip (Figure 1).

Regarding claims 8 and 10, Lavoie et al discloses a caulking gun assembly comprising of a cartridge (12) which holds a compound, a plunger (14), and a tip having guides extending outside a planar surface having a pair of lateral edges (46), wherein the guides include a planar wall which is perpendicular to the planar surface of the

outlet portion (Fig 1), the tip also including at least one channel (16) for receiving the compound from the cartridge.

Regarding claims 12 and 14, Lavoie et al discloses a tip for a caulking gun comprising of a shank (28), outlet portion (48 & 50), a planar surface (surface on which outlet portions 48 & 50 lie) extending between two lateral edges that are connected to two guides which extend outside the planar surface of the outlet portion (46).

Regarding claim 16, Lavoie et al discloses further states an attachment for use with a conventional caulking tip comprising of a body having clips for attachment of the body to the conventional tip, Lavoie et al further discloses that the attachment interconnects a body (40) with a member (18) by means of pins (38).

Regarding claims 17 and 18, Lavoie et al (US 5,749,498) discloses a method of applying a material (col. 1, line 67) with a tip with lateral edges extending outside a planar surface (Fig.1), a connecting tip to a caulking gun, being able to engage a guide with an edge of an elongated structure (col.2, lines 53-56), and extruding a material while moving the tip along the elongated structure. The holding step is being performed by engaging a guide, connected to the tip that extends outside a planar surface of an outlet portion of the tip (46).

Claim 17 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Chao et al (US 5,882,133).

Regarding claims 17 and 18, Chao et al (US 5,882,133) discloses a method of applying a material (co1, line 28) with a tip with lateral edges extending outside a planar

surface, a connecting tip to a caulking gun, being able to engage a guide with an edge of an elongated structure and extruding a material while moving the tip along the elongated structure (col. 1, line 42-44). The holding step is being performed by engaging a guide (5), connected to the tip that extends outside a planar surface of an outlet portion of the tip (Fig.1).

Regarding claims 4,7,11,15, Lavoie et al discloses the tip as shown in Figure 1 has a outlet portion (surface on which 48 & 50 lie) having a width which appears to be greater than ten times the thickness of the guide (46).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,6,9,13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lavoie et al (US 5,749,498) in view Chao et al (US 5,882,133). The Lavoie et al reference discloses a caulking tip that includes two guides positioned at opposite lateral edges of a tip but does not disclose the guides being oriented in mutually opposite directions relative to the outlet portion of the tip.

Chao et al discloses another caulking tip having two guides which are oriented mutually in both directions relative to the outlet portion of the tip.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to have provided the Lavoie et al tip with guides which extend in both directions relative to the outlet portion of the tip as taught by Chao et al. The modified configuration would produce a tip with guides being oriented in mutually opposite directions relative to the outlet portion of the tip.

Conclusion

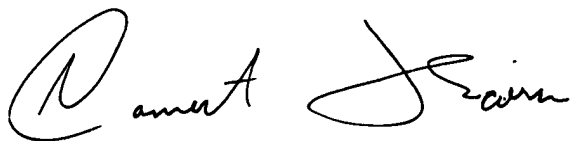
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Navneet K. Khaira whose telephone number is 703-305-0860. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mar Y. Michael can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3754

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A handwritten signature in cursive script, appearing to read "Robert A. J. Smith".

NK
10/13/04

A handwritten signature in cursive script, appearing to read "Michael Mar".

MICHAEL MAR
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700